

ORDINANCE NO. 11-42

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW AN LED READER-BOARD ON PROPERTY ZONED COMMERCIAL OUTSIDE THE GEOGRAPHIC AREA WHERE LED SIGNS ARE PERMITTED AND WITHIN 155 FEET, MORE OR LESS, FROM PROPERTY ZONED RESIDENTIAL TO THE SOUTH, AND 285 FEET, MORE OR LESS, FROM PROPERTY ZONED RESIDENTIAL TO THE EAST, WHERE A MINIMUM 300 FEET IS REQUIRED, CONTRA TO HIALEAH CODE §§ 74-149 (b) AND 74-149 (e). **PROPERTY LOCATED AT 3395 WEST 68 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of June 8, 2011, recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The below-described property is hereby granted a variance permit to allow an LED reader-board on property zoned commercial outside the geographic area where LED signs are allowed, contra to Hialeah Code §§ 74-149 (b) and 74-149 (e), which provide in pertinent part: “*Geographic area.* The LED regulations are limited to a geographic area comprising of three distinct areas: (1) properties fronting West 49 Street, from the west side of West 4 Avenue to West 20 Avenue; (2) properties fronting West 16 Avenue, from Okeechobee Road to West 49 Street; and (3) properties fronting Okeechobee Road, on the northern side, from West 16 Avenue to West 20 Avenue.” and “*Distance from residential-zoned properties.* An LED sign shall be placed at a distance no less than a 300-foot radius from the property lines of a residential-zoned property.”,

respectively. Property located at 3395 West 68 Street, Hialeah, Miami-Dade County, Florida, zoned C-1 (Restricted Retail Commercial District), and legally described as follows:

TRACT A, OF MARCIA'S PLAZA SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 168, AT PAGES 82-1 AND 82-2, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

THE ABOVE DESCRIBED PARCEL BEING ONE AND THE SAME AS THE LANDS DESCRIBED IN EXHIBIT "A" LEGAL DESCRIPTION OF THE TITLE COMMITMENT BY CHICAGO TITLE INSURANCE COMPANY, TITLE NO. 200807084 WITH AN EFFECTIVE DATE OF AUGUST 19, 2010 AT 8:00 A.M., DESCRIBED AS FOLLOWS:

LEASEHOLD ESTATE CREATED UNDER THAT CERTAIN GROUND LEASE BY AND BETWEEN RENEGADE AT HIALEAH BLVD, LLC, A FLORIDA LIMITED LIABILITY COMPANY, LANDLORD, AND CVS 75870 FL, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY, DATED JUNE 19, 2009, A MEMORANDUM/ SHORT FORM OF WHICH WAS FILED AUGUST 19, 2009 IN OFFICIAL RECORDS BOOK 26983, PAGE 3166, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, DEMISING THE FOLLOWING THE FOLLOWING DESCRIBED LANDS: THAT PORTION OF THE SOUTH ½ OF TRACT 23, OF "CHAMBERS LAND COMPANY SUBDIVISION", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 68, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LYING IN THE SW ¼ OF SECTION 28, TOWNSHIP 52 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 28, THE STANDARD PLANE RECTANGULAR COORDINATES FOR THE EAST ZONE OF FLORIDA FOR SAID POINT BEING X=711739.45, Y=2563973.12; THENCE N89°36'02"E ALONG THE SOUTH LINE OF SAID SECTION 28 FOR 1649.45 FEET; THENCE N02°35'56"W ALONG THE EASTERLY LINE OF SAID TRACT 23 AND ITS SOUTHERLY PROJECTION THEREOF FOR 50.04 FEET TO THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL OF LAND; THENCE S89°36'02"W ALONG A LINE 50.00 FEET NORTH OF SAID SOUTH LINE

OF SECTION 28 ALSO BEING ALONG THE NORTH RIGHT-OF-WAY LINE OF A 40' CANAL RIGHT-OF-WAY FOR 294.17 FEET TO THE POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY OF NW 92ND-97TH AVENUE (CONNECTOR) PER MIAMI-DADE COUNTY CASE NO. 92-14130, SAID POINT ALSO BEING THE POINT OF CURVE OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST, THE CENTER OF WHICH BEARS S58°07'55"E FROM THE RADIUS POINT; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CIRCULAR CURVE ALSO BEING THE EASTERLY RIGHT-OF-WAY LINE OF NW 92ND-97TH AVENUE (CONNECTOR), HAVING A RADIUS OF 1959.86 FEET, THROUGH A CENTRAL ANGLE OF 19°24'07", FOR AN ARC DISTANCE OF 663.67 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF OF THE AFOREMENTIONED TRACT 23; THENCE N89°36'01"E ALONG THE AFOREMENTIONED NORTH LINE OF THE SOUTH HALF OF SAID TRACT 23 FOR 17.28 FEET TO THE NORTHEAST CORNER OF SAID SOUTH ½ OF TRACT 23; THENCE S02°35'56"E ALONG THE AFOREMENTIONED EAST LINE OF SAID TRACT 23 FOR 610.38 FEET TO THE POINT OF BEGINNING.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.

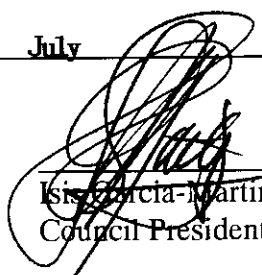
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

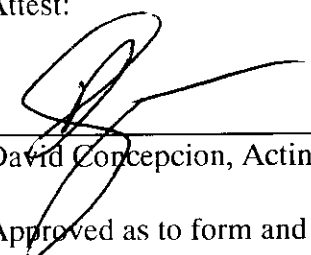
PASSED and ADOPTED this 12th day of July, 2011.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 186.041
PRIOR TO FINAL READING.


Isis Garcia-Martinez
Council President

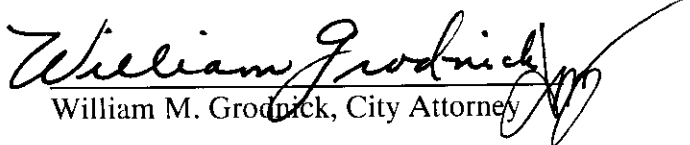
Attest:

Approved on this ____ day of ____, 2011.


David Concepcion, Acting City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0 vote with
Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente,
Garcia-Martinez, Gonzalez and Yedra voting "Yes",
Councilmember Hernandez absent.